

BEFORE THE  
PHYSICIAN ASSISTANT COMMITTEE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation	)	Case No. 1E-2009-199713
Against:	)	
	)	
JEFFREY MELLO, P.A.	)	
	)	
	)	
Physician Assistant	)	
License No. PA 16836	)	
	)	
	)	
Respondent.	)	

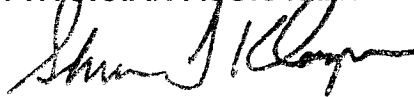
DECISION

The attached Stipulated Surrender of License and Order is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 24, 2010.

DATED November 17, 2010

PHYSICIAN ASSISTANT COMMITTEE



Steven Klompus, P.A., Chair

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GAIL M. HEPPELL  
Supervising Deputy Attorney General  
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8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
**PHYSICIAN ASSISTANT COMMITTEE**  
**MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 1E-2009-199713

14 **JEFFREY MELLO, PA**  
3110 Cowan Circle  
15 Sacramento, CA 95821

OAH No. 2010030488

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16 Physician Assistant License No. PA 16836

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 **PARTIES**

22 1. Elberta Portman (Complainant) is the Executive Officer of the Physician Assistant  
23 Committee. She brought this action solely in her official capacity and is represented in this  
24 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Jessica M.  
25 Amgwerd, Deputy Attorney General.

26 2. Jeffrey Mello, P.A. (Respondent) is representing himself in this proceeding and has  
27 chosen not to exercise his right to be represented by counsel.

28 ///

1           3.     On or about March 30, 2003, the Physician Assistant Committee issued Physician's  
2     Assistant No. PA 16836 to Jeffrey Mello, P.A. (Respondent).

3                                   **JURISDICTION**

4           4.     Accusation No. 1E-2009-199713 was filed before the Physician Assistant Committee  
5     (Committee), for the Medical Board of California Department of Consumer Affairs, and is  
6     currently pending against Respondent. The Accusation and all other statutorily required  
7     documents were properly served on Respondent on January 26, 2010. Respondent timely filed  
8     his Notice of Defense contesting the Accusation. A copy of Accusation No. 1E-2009-199713 is  
9     attached as Exhibit A and incorporated by reference.

10                               **ADVISEMENT AND WAIVERS**

11          5.     Respondent has carefully read, and understands the charges and allegations in  
12     Accusation No. 1E-2009-199713. Respondent also has carefully read, and understands the effects  
13     of this Stipulated Surrender of License and Order.

14          6.     Respondent is fully aware of his legal rights in this matter, including the right to a  
15     hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
16     his own expense; the right to confront and cross-examine the witnesses against him; the right to  
17     present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
18     the attendance of witnesses and the production of documents; the right to reconsideration and  
19     court review of an adverse decision; and all other rights accorded by the California  
20     Administrative Procedure Act and other applicable laws.

21          7.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22     every right set forth above.

23          8.     Respondent admits to the violations as alleged in Accusation No. 1E-2009-199713.  
24     Additionally, Respondent admits that on August 5, 2010, he improperly sought to pick up a  
25     controlled substance from the pharmacy and was caught.

26          9.     Respondent understands that by signing this stipulation he enables the Committee to  
27     issue an order accepting the surrender of his Physician's Assistant without further process.  
28     Respondent admits to the allegations set forth in the Accusation.

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2 **ORDER**

3 IT IS HEREBY ORDERED that Physician's Assistant No. PA 16836, issued to Respondent  
4 Jeffrey Mello, P.A., is surrendered and accepted by the Physician Assistant Committee.

5 1. The surrender of Respondent's Physician's Assistant and the acceptance of the  
6 surrendered license by the Committee shall constitute the imposition of discipline against  
7 Respondent. This stipulation constitutes a record of the discipline and shall become a part of  
8 Respondent's license history with the Committee.

9 2. Respondent shall lose all rights and privileges as a physician assistant in California as  
10 of the effective date of the Committee's Decision and Order.

11 3. Respondent shall cause to be delivered to the Committee his wall license certificate  
12 and, if one was issued, his pocket license on or before the effective date of the Decision and  
13 Order.

14 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
15 the State of California, the Committee shall treat it as a petition for reinstatement. Respondent  
16 must comply with all the laws, regulations and procedures for reinstatement of a revoked license  
17 in effect at the time the petition is filed, and all of the charges and allegations contained in  
18 Accusation No. 1E-2009-199713 shall be deemed to be true, correct and admitted by Respondent  
19 when the Committee determines whether to grant or deny the petition.

20 5. If Respondent should ever apply or reapply for a new license or certification, or  
21 petition for reinstatement of a license, by any other health care licensing agency in the State of  
22 California, all of the charges and allegations contained in Accusation, No. 1E-2009-199713 shall  
23 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
24 Issues or any other proceeding seeking to deny or restrict licensure.

25 6. Respondent shall pay the Committee its costs of investigation and enforcement in the  
26 amount of \$5,000.00 (Five Thousand Dollars) upon reinstatement.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Physician's Assistant. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physician Assistant Committee, Medical Board of California.

DATED: 10/29/10

JEFFREY MELLO, P.A.  
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Physician Assistant Committee, Medical Board of California of the Department of Consumer Affairs.

Dated: October 29, 2010

EDMUND G. BROWN JR.  
Attorney General of California  
GAIL M. HEPPELL  
Supervising Deputy Attorney General

*Jessica Amgwerd*  
JESSICA M. AMGWERD  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 1E-2009-199713**

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO 26-20-10  
BY [Signature] ANALYST

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*Attorneys for Complainant*

**BEFORE THE  
PHYSICIAN ASSISTANT COMMITTEE  
MEDICAL BOARD OF CALIFORNIA  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**JEFFREY MELLO, PA**  
3110 Cowan Circle  
Sacramento, CA 95821

Physician Assistant License No. PA 16836

Respondent.

Case No. 1E-2009-199713

**ACCUSATION**

Complainant alleges:

**I.**

**PARTIES**

1. Elberta Portman (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Committee.

2. On or about March 20, 2003, the Physician Assistant Committee issued Physician Assistant License No. PA 16836 to Jeffrey Mello (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2010, unless renewed.



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II.

RELEVANT STATUTES/REGULATIONS

3. This Accusation is brought before the Physician Assistant Committee, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Physician assistants are regulated under the Physician's Assistant Practice Act (Business and Professions Code section 3500.5 *et. seq.*)

5. Business and Professions Code section 3527 provides in part that the committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician's assistant certificate for unprofessional conduct, which includes but is not limited to a violation of the Physician's Assistant Act and a violation of the Medical Practice Act.

6. Business and Professions Code section 2234, states as follows:

**§ 2234. Unprofessional conduct**

The Division of Medical Quality<sup>1</sup> shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

...

7. Business and Professions Code section 2236, states as follows:

**§ 2236. Conviction of offense related to qualifications, functions, or duties of physician or surgeon; unprofessional conduct; notice of pendency of action; record of conviction**

(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this

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<sup>1</sup> California Business and Professions Code section 2002, as amended and effective January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in the State Medical Practices Act means the "Medical Board of California", and references to the "Division of Medical Quality" in the Act or any other provision of law shall be deemed to refer to the Board.

chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

...  
(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.

8. Business and Professions Code section 2238, states as follows:

**§ 2238. Violation of federal or state statute or regulation regulating dangerous drugs or controlled substances; unprofessional conduct**

A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

9. Business and Professions. Code section 2239 states in pertinent part, the following:

**§ 2239. Misuse of controlled substances, dangerous drugs or alcohol; unprofessional conduct**

(a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. . . .

10. Business and Professions Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

III.

**DANGEROUS DRUGS AT ISSUE**

11. Lorazepam (the generic name for "Ativan"), is a Schedule IV controlled substance as defined by the Health and Safety Code section 11057(d), and is a dangerous drug as designated in Health and Safety Code section 4022. Ativan is a psychotropic drug for the management of anxiety disorders and sedation or for the short term relief of the symptoms of anxiety.

12. Tramadol hydrochloride (the generic name for "Ultram/Tramadol"), is a centrally acting synthetic analgesic compound. It is a dangerous drug as designated in Health and Safety Code section 4022. Ultram is used for the management of moderate to moderately severe pain.

13. Cocaine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(6). It is a dangerous drug as designated in Health and Safety Code section 4022.

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B&PC 4022	CONTROLLED SUBSTANCE
Ativan	Lorazepam	Yes	Yes. H& S Code § 11057(d)
Ultram/Tramadol	Tramadol Hydrochloride	Yes	No.
Cocaine	Lorazepam	Yes	Yes. H& S Code § 11055(b)

IV.

**GENERAL BACKGROUND**

**A. Black-Out and Positive Cocaine Testing At Sutter Memorial Hospital.**

14. From April 2005 to February 2008, Respondent worked at Sacramento Cardiovascular Surgeons, for Dr. I., Dr. K., and Dr. L.

15. In February 2008, Respondent worked one morning with Dr. L. at Sutter Memorial Hospital. At approximately 2:00 p.m. that day Respondent passed out in the hall/kitchen area of Sutter Memorial Hospital, and was taken to the hospital's Emergency Room. Urine tests showed Respondent tested positive for Cocaine. Respondent admitted that he used Cocaine the prior Sunday.

1           16.     Due to the positive Cocaine testing, Sacramento Cardiovascular Surgeons  
2 terminated Respondent's employment to avoid liabilities

3     **B.     July 2008 Conviction for Driving With A Blood Alcohol Content Of .11%.**

4           17.     On the morning of June 6, 2008, Respondent was driving his car in Santa Clara  
5 County while under the influence of alcohol. He had an accident in Los Gatos, and his car was  
6 found down an embankment off the ramp to Northbound HWY 17. He was arrested at 0156  
7 hours, for driving under the influence of alcohol, in violation of Vehicle Code section 23152(a)  
8 and section 23152(b). Testing revealed Respondent had a Blood Alcohol Content of .11%.

9           18.     On July 3, 2008, in the County of Santa Clara, a misdemeanor complaint entitled,  
10 *People v. Jeffrey Alan Mello*, Case No CC810548, was filed against Respondent. The criminal  
11 complaint alleged two counts against Respondent: (1) Vehicle Code Section 23152(A) [driving  
12 under the influence of alcohol]; and (2) Vehicle Code Section 23152(B) [driving under the  
13 influence of alcohol with a Blood Alcohol Content of .08% or higher].

14           19.     On July 21, 2008, in the case, *People v. Jeffrey Alan Mello*, Case No CC810548,  
15 Respondent pled nolo contendere to Vehicle Code Section 23152(B) [driving under the influence  
16 of alcohol with a Blood Alcohol Content of .08% or higher]. Respondent was placed on  
17 probation for three years.

18     **C.     Enrollment In MAXIMUS Drug Diversion Program and Termination.**

19           20.     According to Respondent, in November 2008, Sacramento Cardiovascular  
20 Surgeons asked him to return to work and submit to random drug testing. Respondent agreed and  
21 began the credentialing process with Sutter Memorial Hospital.

22           21.     As part of the credentialing process, Sutter Memorial Hospital asked Respondent  
23 to see Dr. G. regarding monitoring. A hair sample from Respondent revealed he had taken  
24 Tramadol. Respondent was recommended to the Pacific Assistance Group, which determined he  
25 needed more extensive monitoring and thus referred him to MAXIMUS.

26           22.     On April 1, 2009, Respondent enrolled in the MAXIMUS Diversion Program.  
27 Initially, he failed to disclose he was briefly enrolled with the Pacific Assistance Group or that he  
28 had a conviction for driving under the influence of alcohol in 2008. On April 3, 2009,

1 Respondent agreed to the Preliminary Contract Terms of MAXIMUS, which included, *inter alia*,  
2 the following terms:

- 3 a. random body fluid testing;
- 4 b. remaining free of all mind altering medications;
- 5 c. abstaining from alcohol;
- 6 d. calling on a daily basis for random drug testing;
- 7 e. seeking prior approval for all prescribed medications; and
- 8 f. Health Support Group attendance.

9 23. Respondent became angry when it was requested that he attend a 3-Day intensive  
10 evaluation at Hazelden Springbrook. On May 14, 2009, Respondent submitted to MAXIMUS a  
11 prescription for Ativan, without seeking prior approval. On May 17, 2009, Respondent  
12 discontinued calling daily for his random body fluid testing and discontinued participating in the  
13 Health Support Group.

14 24. Due to Respondent's failure to comply with the MAXIMUS diversion program  
15 agreement, on June 4, 2009, MAXIMUS terminated Respondent from the Physician Assistant  
16 Committee Diversion Program for non-compliance.

17 **D. June 2009 Disorderly Conduct/Intoxication in Public.**

18 25. On June 14, 2009, at 0132 hours, Respondent was arrested by the Shasta County  
19 Sheriff's Department for violating Penal Code Section 647(f) [disorderly conduct/intoxication  
20 drugs and or alcohol.]

21 26. Prior to the arrest, Respondent unsuccessfully tried to enter Bombay's Bar, but  
22 was refused entry due to his obvious level of intoxication. The arresting officer told Respondent  
23 he was very intoxicated and needed to go home. The officer offered to call a cab, and gave  
24 Respondent the choice of leaving in a cab or going to jail. Respondent disagreed and in a hostile  
25 manner said "wait till your [sic] in the hospital bleeding." Because Respondent was  
26 uncooperative and too intoxicated to care for his own safety, he was arrested.

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1 **E. Admissions During November 24, 2009 Interview.**

2 27. During investigation, Respondent was interviewed by Medical Board Investigator  
3 and admitted that he recreationally used Cocaine on three occasions, in February 2008, and twice  
4 before in 2007. He also admitted to sometimes having twenty drinks a week.

5  
6 **V.**

7 **VIOLATIONS**

8 **FIRST CAUSE FOR DISCIPLINE**

9 [Unprofessional Conduct]

(B&P § 2234)

10 28. Paragraphs 14 through 27 are incorporated herein by reference. Respondent is  
11 subject to disciplinary action under section Business and Professions Code section 2234, for  
12 unprofessional conduct. More specifically, the unprofessional conduct includes the following  
13 conduct:

- 14 a. illegally self administering Cocaine on three occasions between 2007 and 2008  
15 without a prescription;
- 16 b. driving with a Blood Alcohol Content of .11% resulting in a conviction for violating  
17 Vehicle Code Section 23152(B) on July 21, 2008.
- 18 c. appearing intoxicated in public on June 14, 2009 and being arrested for violating  
19 Penal Code Section 647(f) [disorderly conduct/intoxication].

20 **SECOND CAUSE FOR DISCIPLINE**

[Misusing Controlled Substances And Alcohol]

(B&P §2239)

21 [Violating State Statutes Regulating Dangerous Drugs/Controlled Substances]

22 (B&P §2238)

23  
24 29. Paragraphs 14 through 28 are incorporated herein by reference. Respondent is  
25 subject to disciplinary under Business and Professions Code Section 2239 for misusing controlled  
26 substances (Cocaine) and alcohol as alleged in the preceding paragraphs. Further, by self  
27 administering Cocaine, Respondent has violated Business and Professions Code Section 2238 by  
28 violating state statutes regulating controlled substances and dangerous drugs.

1 VI.

2 PRAYER

3 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged.  
4 and that following the hearing, the Physician Assistant Committee issue a decision:

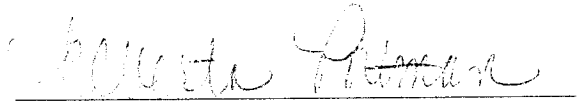
5 1. Revoking or suspending Physician Assistant License No. PA 16836 issued to Jeffrey  
6 Mello, PA;

7 2. Ordering Jeffrey Mello, PA to pay the reasonable costs of the investigation and  
8 enforcement of this case, pursuant to Business and Professions Code section 125.3;

9 3. Ordering Jeffrey Mello, P.A. to pay the costs of probation monitoring if probation is  
10 imposed; and

11 4. Taking such other and further action as deemed necessary and proper.

12  
13 DATED: January 26, 2010

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16 ELBERTA PORTMAN  
17 Executive Officer  
18 Physician Assistant Committee  
19 State of California  
20 Complainant

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